

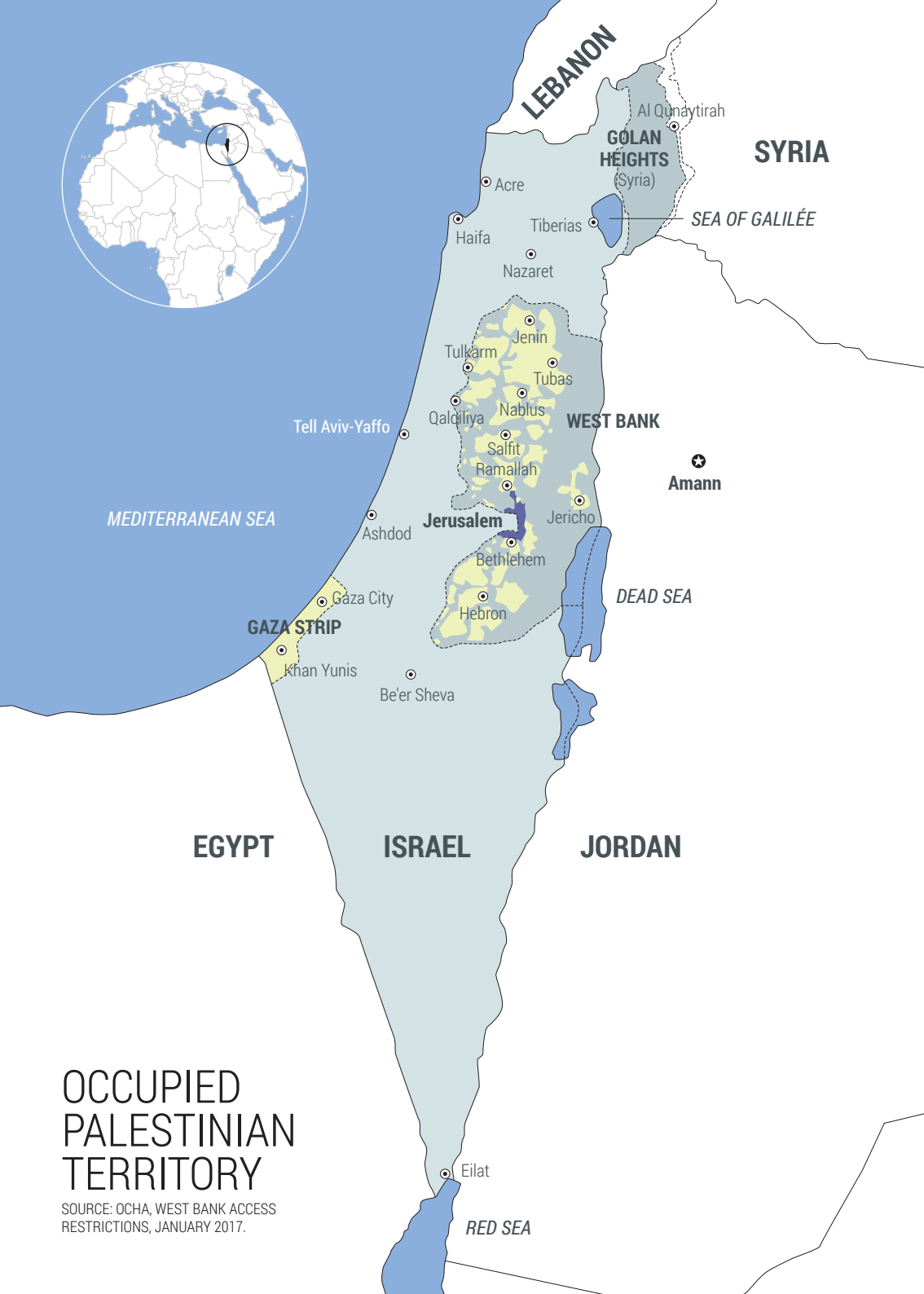


THE RIGHT TO HEALTH

IN THE OCCUPIED PALESTINIAN TERRITORY

Authors: Clara Sancho, Médicos del Mundo Advocacy unit and team in oPt





OCCUPIED PALESTINIAN TERRITORY

SOURCE: OCHA, WEST BANK ACCESS
RESTRICTIONS, JANUARY 2017.

Context

The right to health in the occupied Palestinian territory (oPt) is at a critical point. Barriers to accessing health and an ongoing deterioration of health services are directly linked to the Israeli occupation and its various mechanisms, such as the blockade, restriction of movement and check points.

Since the 1967 Arab-Israeli war, Israel has occupied the Gaza Strip and West Bank. East Jerusalem, part of the West Bank but annexed by Israel in a move not internationally recognized, is cut off from the rest of the occupied territories by Israel's wall and checkpoints.

Palestinians movement is restricted by a regime of permits and checkpoints that requires Palestinians to obtain permits to pass into Israel. In the West Bank, Palestinians ability to move around is in the hands of the Israeli soldier operating the checkpoints. Palestinians of East Jerusalem are not required to have permits to travel throughout Israel and the West Bank while the Gaza Strip has been fully blockaded and cut off for the last 11 years and only a handful of its residents get permits.

GAZA STRIP: Sealed in by both Israel and Egypt, Gaza's nearly two million residents are confined to the 51 kilometer strip. Israel has fought three wars in Gaza since 2008. It prohibits most Palestinians from entering and leaving the territory, which is controlled by Hamas¹. The blockade shattered Gaza's economy, decimated its residents' standard of living and restricted to basic necessities like clean drinking water and electricity. For the last decade Gazans' have lurched from health crisis to infrastructure collapse, rebuilding from one war just in time for the next.

WEST BANK: Under the framework of the 1993 Oslo Accords, the West Bank was divided into three administrative areas: A, B and C. Area A is under the Palestinian Authority's full control, Area B is under Palestinian Authority's civil control and Israeli's security control; and Area C is exclusively under Israel's control. Although this division was established as a temporary measure, it remains in place over 20 years later.

This has placed the West Bank under a very complex system of control by Israeli authorities, with many bureaucratic and physical barriers such as checkpoints, roadblocks, and travel permits, which undermine the right to freedom of movement of Palestinians. Israel has two major checkpoints that divide West Bank into three. This is compounded by the increase in settlements, demolitions and restrictions to access natural resources and land. There are two areas within West Bank of particular concern:

- Area C: it comprises 62% of the population of West Bank, and it is under direct control of Israel, which benefits the expansion of settlements and gives more space for the Israeli military to train and to control the territory. This impacts negatively on the living conditions of Palestinians who face demolitions, displacements and poverty.

- East Jerusalem: Israel unilaterally annexed this area to its territory in 1967. Palestinians living in it are 'permanent residents' of Israel, which gives them more freedom of movement and access to services than Palestinians from other areas, but it keeps them cut off from the rest of the occupied Palestinian territory.

¹ Israel's removal of its Gaza settlements in 2005 followed by Hamas' take over the Strip, following Palestinian political infighting in the wake of the 2006 Palestinian elections, lead to a rapid Israeli escalation of restrictions.

The Right to Health

The **right to health**² is a universal human right. Understanding health as a human right creates a legal obligation on states to ensure access to timely, acceptable, and affordable health care of appropriate quality as well as to provide the underlying determinants of health, such as safe and potable water, sanitation, food, housing, health-related information and education, and gender equality. It is comprised by four core principles:

- **Availability:** adequate number of health services, medical staff and programs available.
- **Accessibility:** health services and facilities must be accessible to everyone, considering physical, economic and information access.
- **Acceptability:** all health establishments and services must be culturally adapted and sensitive to gender.
- **Quality:** health facilities, services, equipment, supplies and treatment must be appropriate in quality from a scientific and medical point of view.

To promote and ensure the right to health, considering its four dimensions, **Médicos del Mundo** works in the occupied Palestinian territory since 2006, implementing projects for the promotion of the right to health and mental health both in West Bank and the Gaza Strip. Médicos del Mundo is an independent association which works to promote and assure the right to health for every person, with special attention to vulnerable or excluded groups and victims of natural disasters, famine, diseases, armed conflicts or political violence.



POPULATION

4.88 million Palestinians live in the oPt, with 2.97 million in the West Bank and 1.91 million in the Gaza Strip.

SOURCE: PCBS 2016



PALESTINIAN REFUGEES

44% of the oPt population are refugees and nearly 50% are below the age of 18.

SOURCE: PCBS 2015



UNEMPLOYMENT

41% unemployment rate in the Gaza Strip and **20%** in the West Bank.

SOURCE: PCBS 04 2016



FOOD INSECURITY

47% of the population in the Gaza Strip and **16%** of the West Bank live in poverty.

SOURCE: (WFP, FAO, UNFPA, PCBS); SEFSEC2014



ISRAELI SETTLEMENTS

587,000 Israeli settlers live in 150 settlements and 100 settlements outpost in the West Bank, including East Jerusalem, in contravention of international law.

SOURCE: ICBS 2015 & JIIS 2014



WATER CONSUMPTION

79 litres/capita/day (l/c/d) is de averagewater consumption in the West Bank and **40-50** l/c/d inthe Gaza Strip, below the WHO standard of 100 l/c/d.

SOURCE: WASH CLUSTER

SOURCE: OCHA, WEST BANK ACCESS RESTRICTIONS, JANUARY 2017.

² The right to health (Article 12) was defined in General Comment 14 of the Committee on Economic, Social and Cultural Rights – a committee of Independent Experts, responsible for overseeing adherence to the Covenant. The WHO Constitution (1946) envisages "...the highest attainable standard of health as a fundamental right of every human being."

Obligations, responsibilities and rights

An important element of the oPt is the presence of several duty bearers within the territory:

A) THE STATE OF ISRAEL: as the occupying force, it has the obligation of promoting and ensuring the right to health of the Palestinian population, according to the Fourth Geneva Convention, articles 49, 50 and 53.

Further to this, Article 55 of the Fourth Geneva Convention of 1949, states that “to the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population”³. As occupying power Israel is not fulfilling its obligations to ensure assistance and medical aid to the Palestinian population in the occupied territory. These violations have been observed in the recent events occurring in Gaza since the demonstrations starting the 30th of March, there have been attacks by the Israeli military forces against civilians but also health personnel and facilities. According to WHO, since the 30th March 114 health personnel have been injured and 23 ambulances damages⁴. In addition, the International Covenant on Social, Economic and Cultural Rights, to which Israel is a signatory, also requires Israel to create the conditions in which the necessary medical services can be delivered in the event of sickness.

B) THE MINISTRY OF HEALTH OF THE PALESTINIAN AUTHORITY: it has the obligation of ensuring health and mental health services in primary health care and mental health community centers, according

to their Strategic Plan and their mission.

C) THIRD PARTIES: while third states are legally obliged to ensure Israel respects international humanitarian law, the international community and international organizations must fulfill their responsibility towards Palestinian civilians, ensuring that Israel ends violations of the right to health of Palestinians, and demanding the end of the blockade over the Gaza Strip.

- **In the European context**, the European Union and its member States, as a privileged partner of Israel, mainly through the Partnership Agreement between the European Union and Israel, must demand Israel to respect human rights and democratic principles.

- **In the international context**, the United Nations (including UNRWA), according to its international mandate, have the obligation to monitor and promote compliance of citizen rights.

The compliance of these obligations is necessary to ensure the right to health of Palestinians.

³ Geneva Convention (IV), Relative to the Protection of Civilian Persons in Time of War, 12 August 1949, Article 55.

⁴ WHO, Special Situation Report oPt, Gaza 21 st - 29th April 2018 and WHO, WHO, Special Situation Report oPt, Gaza 14th-15th May 2018.

Barriers to the Right to Health

Lack of access to resources, restrictions to the movement of people, supplies and ambulances, are some of the many barriers imposed on health services in the occupied Palestinian territory. These problems are to a great extent consequence of the Israeli military occupation of the oPt, the fragmentation of the oPt between the West Bank and the Gaza Strip, and the high number of checkpoints and controls among other security strategies imposed by Israel. All this increases dependency on humanitarian aid and the Palestinian Authority's inability to provide good quality services.

In the occupied Palestinian territory, there is an average ratio of beds per 1000 inhabitants of 1.4⁵, half of the Spanish ratio (3.0) and almost a third of the EU average (5.3)⁶. In addition to this, there are few specialized or lifesaving medical care, which forces patients to be referred to specialized hospitals, either in East Jerusalem, Israel or Egypt. Israel's permit system that requires all Palestinian residents of the occupied territory to obtain a permit in order to enter East Jerusalem and Israel, even if it is in order to transit through Israel to travel between the West Bank and the Gaza Strip, means long delays in responding, a high rejection rate and uncertainty for patients and companions.

It is important to bear in mind that these restrictions of movement apply also to patients' companions (especially

important in the case of sick children), as well as medical personnel, who have very limited access to training.

Lastly, there is also restriction of movement of ambulances, which have to stop at checkpoints (and there are 59 permanent checkpoints⁷ only in the West Bank), and in most cases cannot go directly to the hospital, having to transfer the patient to an Israeli registered ambulance in order to enter or cross Israeli territory.

These restrictions of movement and the permit system are tools employed by Israel to enforce its occupation of Palestinian territory and the expanding Israeli security strategies. The Israeli government is denying the Palestinian population free access to their own territory, forcing them to request permits and overcome many hurdles in order to access health services in their own territory. This affects the lives of thousands of Palestinians and limits their right to health.

⁵ Palestinian Central Bureau of Statistics, 2014.

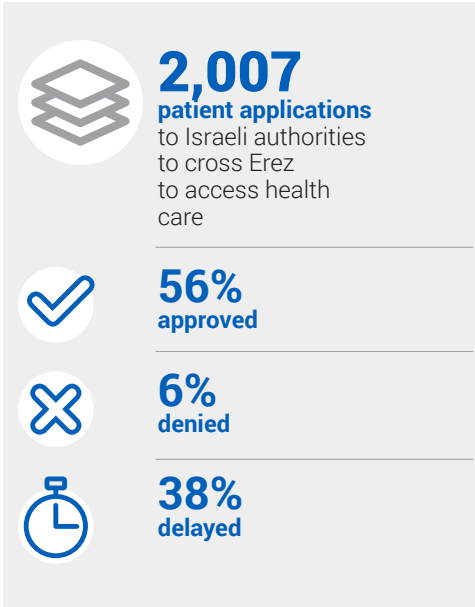
⁶ Ministry of Health, Social Services and Equality (Spain), Annual Report on the National Health System of Spain, 2015.

⁷ Restrictions on Movement, B'Tselem https://www.btselem.org/freedom_of_movement/checkpoints_and_forbidden_roads#list

The West Bank



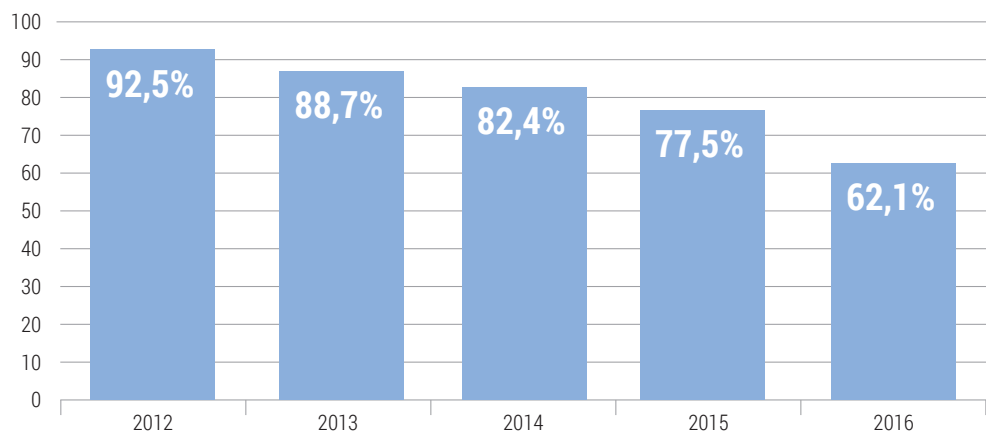
The Gaza Strip



SOURCE: WHO, MONTHLY REPORT HEALTH ACCESS: BARRIERS FOR PATIENTS IN THE OPT, JANUARY 2018.

Table 1: **Approval rate.**

SOURCE: COMPILATION MADE ON INFORMATION FROM THE REPORT WHO, RIGHT TO HEALTH: CROSSING BARRIERS TO ACCESS HEALTH IN THE OPT, 2016.

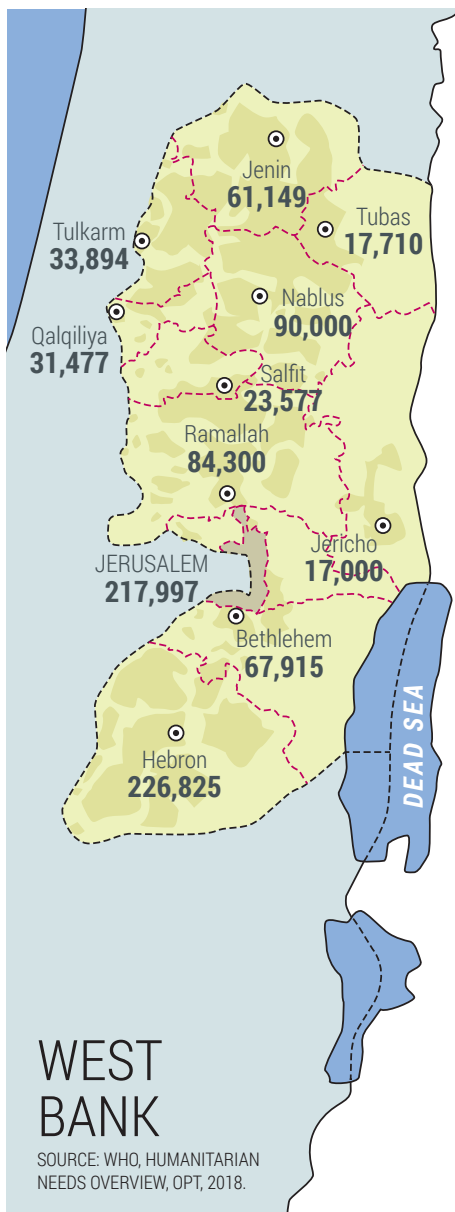


...in West Bank

The availability of services in West Bank is quite limited, with areas without any health facilities or services, which leaves many Palestinian communities vulnerable. A high percentage of medical personnel and specialized services, are concentrated in East Jerusalem within the occupied Palestinian territory.

One of the most serious problems affecting the right to health of Palestinians in West Bank is related to the accessibility to health services. It is important to stress that movement inside West Bank is very limited, due to the already mentioned complex system of physical and bureaucratic barriers imposed by Israeli authorities on Palestinians, which limit access to health facilities inside West Bank but also referrals to other hospitals. Especially critical is the situation of the Area C due to the separation wall, checkpoints, closed areas, proximity to settlements, and long distances to the clinics, which make it more difficult - or even impossible- to access health services. These restrictions of movement are also applicable to health professionals, who in many occasions are denied permits by the Israeli authorities, preventing them from moving to other areas of their own territory, to Israel or overseas to continue their training.

All of this has consequences over the quality of the health services, which impedes Palestinians to fully access their right to health.



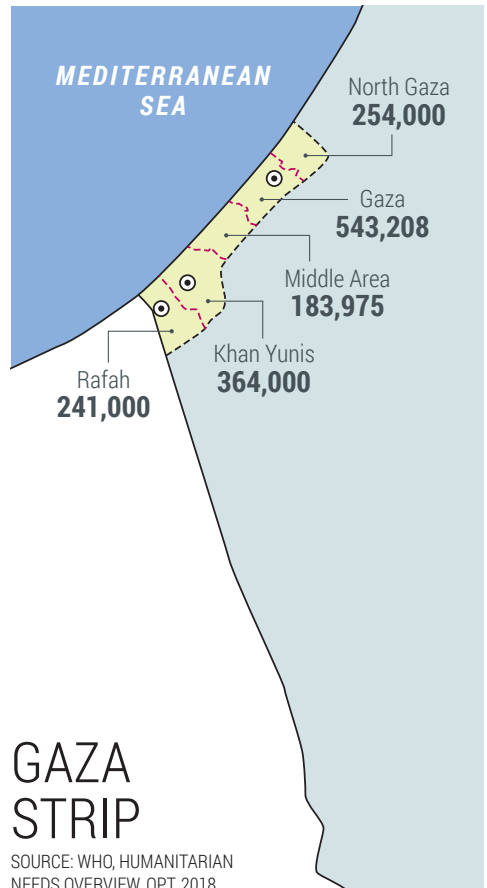
...in the Gaza Strip

The availability of services in the Gaza Strip is slightly higher than in the West Bank, though there are many factors affecting the access and quality of health services.

Regarding access to health services, it is important to stress that in the Gaza Strip there are no checkpoints and division of the territory as it occurs in West Bank. However, as part of the blockade imposed by Israel, Palestinians cannot enter or leave the Gaza Strip without a permit from Israel⁸. This has a massive impact on patients' referral which is totally controlled by the Israeli military authorities.

The shortage of drugs and medical supplies as a result of the Israeli blockade and the "dual use items" list⁹ limits the quality of health services, which is further exacerbated by the shortage of health professionals, and the restrictions on movement for training they face.

This is compounded by a difficult situation regarding the provision of basic services in the Gaza Strip due to the blockade imposed by Israel. The growing electricity cuts have a negative effect on basic services, and there aren't enough resources to maintain generators, with direct effects over medical procedures such as surgeries and maintenance of medical supplies. Lack of equipment and resources to treat sewage, wastewater and other wastes, increases the risk of infection and spread of diseases and poses a direct threat to public health.



SOURCE: WHO, HUMANITARIAN
NEEDS OVERVIEW, OPT, 2018.

⁸ There are two border crossings in Gaza: Rafah which is controlled by the Egyptians doesn't need an Israeli permit but is rarely open, and Erez which is the border between Gaza and Israel, which needs the permit as mentioned.

⁹ Israel published in 2008 a list of "Dual Use" Items to control the entrance of certain products which Israel alleges could be used for military purposes. The official list can be found in the following link: <http://www.cogat.mod.gov.il/en/services/Documents/List%20of%20Dual%20Use%20Items%20Requiring%20a%20Transfer%20License.pdf>

Recommendations

Though there have been many recommendations and demands at the international level for the respect of the right to health in the oPt, these have not resulted in concrete actions to improve the situation by Israeli authorities.

1. THE STATE OF ISRAEL MUST

- Fulfill its obligations as the occupying force in the occupied Palestinian territory to promote and ensure the right to health of the Palestinian population, according to the Fourth Geneva Convention.
- Remove obstacles to the right of movement, allowing free movement of patients and companions for treatment in all areas of the occupied Palestinian territory and the free movement of ambulances and health professionals.

- End the blockade of Gaza and the separation between the different areas of the territory: West Bank, Gaza and East Jerusalem which hinder access to lifesaving health services.

2. THE INTERNATIONAL COMMUNITY (THIRD STATES) -MORE SPECIFICALLY THE EUROPEAN UNION AND SPAIN-, AND INTERNATIONAL ORGANIZATIONS MUST

- Fulfill their responsibility towards Palestinian civilians, and they must hold Israel accountable for the violation of the right to health and the International Law.

3. THE PALESTINIAN AUTHORITY MUST

- Not use health services and professionals for political ends, as it has direct effects over the right to health.





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